IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 7 of 2004

Dayalu Ram S/o Sri Sher Ram,
C/o Sri Harish Chandra Arya,
R/o Vishnupuri, Gali No. 1,
Rampur Road, Haldwani,
District Nainital.

……. Appellant

Versus

1. Life Insurance Corporation of India,
through its Zonal Manager.
2. Zonal Manager / Appellate Authority,
Life Insurance Corporation of India,
Zonal Office-16/98, Mahatma Gandhi Marg,
Kanpur-208 001.
3. Senior Divisional Manager,
Divisional Office, Hotel Saurabh Mount View,
Civil Lines, Haldwani,
District Nainital.
4. Senior Divisional Manager,
Divisional Office-35-D,
Rampur Bagh, Civil Lines,
Bareilly-243 001.

……. Respondents

Mr. J.C. Joshi, Senior Counsel with Mr. Chetan Joshi, Advocate for the appellant.
Mr. M.C. Kandpal, Senior Counsel with Mr. S.S. Chaudhary, Advocate for the respondents.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Rajesh Tandon, J.

RAJEEV GUPTA, C.J. (Oral)

Mr J.C. Joshi, Senior Counsel with Mr. Chetan Joshi, Advocate for the appellant.

Mr. M.C. Kandpal, Senior Counsel with Mr. S.S. Chaudhary, Advocate for the respondents.

They are heard on admission.

2. Appellant Dayalu Ram has filed this Special Appeal against the impugned judgment dated 26.02.2004 passed in Writ Petition No.

3618 of 2001 (S/S), whereby the appellant's writ petition was dismissed.

3. Appellant Dayalu Ram filed the writ petition for the following reliefs:

> "(i) issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 12.5.93 (Annexure XIV), communicated by letter dt. 8.6.93 (Annexure XV), order dt. 24.9.92 (Annexure XII), order dated 31.7.1990 (Annexure VIII) to the writ petition;
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> (ii) issue a writ, order or direction in the nature of Mandamus restraining the opposite parties interfering in his working as Assistant in Rudrapur (Distt. Nainital) Branch of Life Insurance Corporation of India and direct them to pay his salary and pay the same in future regularly as and when the same is due;
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> (iii) issue any other order, writ or direction which this Hon'ble Court may deem fit in the circumstances of the case;
>
> (iv) award the costs of the petition."

4. The petitioner, in substance, was challenging the order dated 12.05.1993 (Annexure XIV), whereby he was removed from service.

5. The petitioner was initially appointed as Peon in the Divisional Office, Life Insurance Corporation, Bareilly sometime in the year 1989. Later on, the petitioner was charge-sheeted and dismissed from service on 31.07.1990. Subsequently, in the year 1991 the petitioner applied for his appointment on the post of Assistant without disclosing that he was earlier appointed as Peon in 1989 and was dismissed in 1990. When it came to the notice of the respondents that the petitioner was a dismissed employee of the respondents and that he secured his appointment as Assistant by concealing the fact of his dismissal, the petitioner was served with the charge-sheet and after enquiry, was removed from service vide order dated 12.05.1993 (Annexure XIV).

6. From the impugned judgment, we gather that the petitioner, in his reply to the notice, admitted the concealment of the fact that he was previously dismissed from service from Class IV post. The learned Single Judge, therefore, found the misconduct proved against the petitioner. As the charge against the petitioner was found to be of serious nature, the learned Single Judge held that the punishment of removal from service cannot be said to be shockingly disproportionate, which may warrant interference. The learned Single Judge, therefore, dismissed the appellant's writ petition.

7. Mr. J.C. Joshi, the learned Senior Counsel for the appellant could not dispute that the petitioner was guilty of concealment of the fact that he was previously dismissed from service by the respondents. It is further apparent that the above material fact was deliberately concealed by the petitioner.

8. We, therefore, do not find any good ground for interference.

9. The Special Appeal, therefore, fails and is hereby dismissed summarily.

(Rajesh Tandon, J.) 04.09.2006

(Rajeev Gupta, C.J.) 04.09.2006

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